

SENATE BILL 133
By McLeary

AN ACT to amend Tennessee Code Annotated, Title 4;
Title 5; Title 6; Title 7; Title 9; Title 11; Title 12;
Title 13; Title 29; Title 35; Title 39; Title 42; Title
43; Title 48; Title 49; Title 54; Title 58; Title 59;
Title 64; Title 65; Title 66; Title 67; Title 68 and
Title 69, relative to eminent domain.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF TENNESSEE:

SECTION 1. Tennessee Code Annotated, Title 29, Chapter 16, is amended by adding the following as a new part:

§ 29-16-201.

As used in this part, unless the context otherwise requires, “condemning authority” means any governmental body, person, corporation or other entity having the power of eminent domain to condemn and take property and property rights of individuals or private corporations for public purposes under this chapter, chapter 17 of this title or any other provision of law.

§ 29-16-202.

Before a condemnation proceeding is brought under this chapter, chapter 17 of this title or any other provision of law, the condemning authority shall attempt to negotiate in good faith with the owner of the property or property rights to be acquired. The condemning authority shall provide the owner with a written offer and shall attempt to reach an agreement with the owner regarding the amount of compensation to be paid for the property or property rights to be acquired.

§ 29-16-203.

(a) No later than the time the written offer of compensation for acquisition is made to the owner, the condemning authority shall notify the owner of the following:

- (1) The public purpose of the project for which the property or property rights is to be acquired;
- (2) A description of the project to be constructed;
- (3) The portion of the property or property rights to be acquired;
- (4) The property assessor's parcel identification number for the property;
- (5) That, within fifteen (15) business days after receipt of a request by the owner, the condemning authority shall provide:

- (A) A copy of the appraisal report upon which the offer to the owner is based, if an appraisal report has been obtained; and

- (B) Copies, to the extent prepared, of the right-of-way maps or other documents that depict the proposed taking;

- (6) The owner's right and responsibilities under the provisions of this part; and

- (7) The owner's statutory rights if a condemnation proceeding is filed in circuit court.

(b) The condemning authority shall provide a written offer of compensation to the owner as to the value of the property sought to be taken and, where less than the entire property is sought to be taken, any damages to the remainder caused by the taking. The owner shall be given at least thirty (30) days after either receipt of the notice or the date the notice is returned as undeliverable by the United States Postal Service to respond to the offer, before the condemning authority files a condemnation proceeding for the parcel identified in the offer.

(c) The notice and written offer shall be sent by certified mail, return receipt requested, to the owner's last known address, or the notice and written offer may be delivered personally to the owner of the property. The return of the notice as

undeliverable by the United States Postal Service constitutes compliance with this section. The condemning authority is not required to give notice or a written offer to a person who acquires title to or interest in the property after the notice required by this section has been given.

§ 29-16-204.

(a) At any time in the negotiation process prior to suit being filed, the compensation claim shall be submitted to nonbinding mediation with a qualified Supreme Court Rule 31 mediator upon notification to the condemning authority by the owner that the owner desires the claim to be mediated. The condemning authority and the owner shall mutually agree on the selection of the Rule 31 mediator. The parties shall contact the Rule 31 mediator directly to arrange for the time and place of the mediation session or sessions and to arrange for payment of costs associated with mediation.

(b) The Tennessee rules of evidence shall not apply in mediation under this part. The Rule 31 mediator may rely upon evidence submitted that reasonably prudent persons would rely upon in the conduct of their affairs.

(c) If agreement as to compensation for the property to be taken is reached in mediation, then such settlement shall be reduced to writing. The written settlement provided shall incorporate by reference the right-of-way maps, construction plans, or other documents related to the taking upon which the agreement is based. In the event of a settlement, both parties shall have the same legal rights that would have been available under law if the matter had been resolved through a condemnation proceeding in circuit court.

§29-16-205.

(d) Evidence of negotiations or of any written or oral statements used in mediation or negotiations between parties under this part is inadmissible in any judicial condemnation proceeding as to the issue of compensation for the property taken.

SECTION 2. This act shall take effect January 1, 2006, the public welfare requiring it.